



CORPORATION SERVICE COMPANY*

WCE / ALL

Transmittal Number: 8657993

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Notice of Service of Process

Primary Contact: Sheila Smith
The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, OH 44115-1075

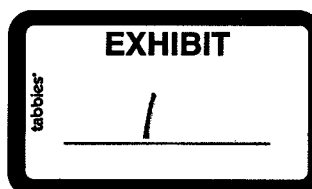
Entity:	The Sherwin-Williams Company Entity ID Number 2470034
Entity Served:	The Sherwin Williams Company
Title of Action:	Brad Mahoney vs. The Sherwin Williams Company
Document(s) Type:	Notice and Complaint
Nature of Action:	Personal Injury
Court/Agency:	Polk County District Court, Iowa
Case/Reference No:	CL121839
Jurisdiction Served:	Iowa
Date Served on CSC:	04/19/2011
Answer or Appearance Due:	20 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Brett J. Beattie 515-263-1000

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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

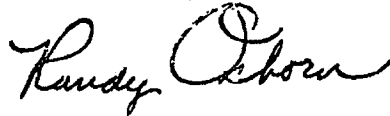
<p>BRAD MAHONEY, ADAM CONRAD and SCOTT CONRAD, Plaintiffs, -VS- THE SHERWIN WILLIAMS COMPANY, Defendant.</p>	<p>LAW NO. <u>CL121839</u></p> <p>ORIGINAL NOTICE</p> <p>CLERK OF COURT POLK COUNTY, IA COURT OFFICE</p> <p>APR 15 P 2:05</p> <p>RECEIVED</p>
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TO: ABOVE-NAMED DEFENDANTS:

You are hereby notified that a Petition at Law has been filed in the office of the Clerk of this Court naming you as defendant in this action. A copy of the Petition filed with it are attached to this Notice. The Attorney for the Plaintiff is Donald G. Beattie, Beattie Law Firm, 4300 Grand Ave., Des Moines, Iowa 50312. The attorney's phone number (515) 263-1000; facsimile number (515) 263-1411.

You must serve a motion or answer within 20 days after service of this original notice upon you and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for Polk County, Iowa, at the county courthouse located in Des Moines, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at. If you are hearing impaired, call Relay Iowa at 1-800-735-2942.



CLERK OF COURT
Polk County Courthouse

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

BRAD MAHONEY, ADAM CONRAD and SCOTT CONRAD, Plaintiffs, -vs- THE SHERWIN WILLIAMS COMPANY, Defendant.	LAW NO. <u>CL21839</u> PLAINTIFFS' PETITION AT LAW AND JURY DEMAND POLK COUNTY IOWA APR -7 PM 3:29 DISTRICT COURT
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GENERAL ALLEGATIONS

COME NOW all Plaintiffs, and in support of their causes of actions against Defendant, ,
state to the Court as follows:

1. That at all times material hereto all of the Plaintiffs set out above were citizens and residents of the State of Iowa.
2. That at all times material hereto The Sherwin Williams Company (hereinafter referred to as "SWC") while being a foreign Defendant, is and has done business in the State of Iowa and has placed its products into the stream of commerce with the intent and expectation that they reach Iowa residents.
3. Furthermore, Sherwin Williams operates offices and actively and routinely conducts daily business in Polk County, Iowa.
4. Therefore, Sherwin Williams resides in and/or is found in Polk County, Iowa rendering venue proper in Polk County, Iowa for the purposes of Iowa Code Section 616.17.
5. That this Court has subject matter jurisdiction; is a proper venue, and this case exceeds jurisdictional minimums.
6. On or about August 4, 2010, Plaintiffs, while in the course and scope of their employment were using acetone in a well-ventilated basement of a customer of their employer at a home located at 16227 Bakely Lane, Peosta, Iowa.
7. The acetone was manufactured and supplied by Defendant.
8. Defendant failed to adequately warn and instruct users of its acetone as to the circumstances under which acetone may not be safely used.
9. The acetone caused a fire and/or explosion, which consumed Plaintiffs.

10. Plaintiffs suffered serious burn injuries and associated health problems as a direct and proximate result of the fire or explosion caused by Defendant's acetone.

11. The injuries and damages as set forth in this Petition, along with Defendant's negligence is within the scope of Defendant's liability as set forth herein and as will be proved at trial.

DIVISION I
(NEGLIGENCE)

12. That these Plaintiffs, individually, jointly, and/or severally replead and reallege the allegations of all above paragraphs, and by this reference incorporate said paragraphs herein all to have the same force and effect as though fully set out herein.

13. That the acetone was defective for inadequate warnings and instructions and, in that regard, Defendant, SWC, was negligent in one or more of the following particulars, to wit:

- (a) In failing to adequately and reasonably warn of the propensities and deficiencies of the acetone, including failing to advise Plaintiff of all dangers as stated in the MSDS for the acetone as well as all other dangers of the acetone that SWC knew or should have known and in failing to warn and/or instruct Plaintiffs concerning how to use the acetone safely; and/or
- (b) In failing to adequately and reasonably warn concerning the appropriate action to take in order to avoid harm from a fire or explosion; and/or
- (c) In designing the acetone in such a way that it was more prone to explode or cause a fire than if it had been designed differently; and/or
- (d) In manufacturing the acetone in a manner that deviated from its intended design; and/or
- (e) In marketing the acetone to persons who were not properly qualified to use the acetone.

14. That as a direct and proximate cause of the negligence of the Defendant, the Plaintiffs have sustained the following injuries and damages including, but not limited to:

- a) Past, present, and future medical and hospital care and treatment.
- b) Past, present, and future permanent disability.
- c) Past, present, and future permanent disfigurement.

- d) Past, present, and future physical and mental pain and suffering and an inability to lead a normal life and psychological injuries.
- e) Past, present, and future loss of enjoyment of life.
- f) Past, present, and future loss of earnings and earning capacity.
- g) Economic or out-of-pocket losses.

15. That as a direct and proximate cause of the negligence of the Defendant, the Plaintiffs herein have sustained the above-stated damages and are entitled to just, reasonable, and adequate compensation therefore.

WHEREFORE, all Plaintiffs pray for judgment against the Defendant in an amount that is just, reasonable, and adequate compensation together with interest as by law allowed, and the costs of this action.

DIVISION II
(BREACH OF IMPLIED WARRANTY)

16. That these Plaintiffs, individually, jointly, and/or severally replead and reallege the allegations of all above paragraphs, and by this reference incorporate said paragraphs herein all to have the same force and effect as though fully set out herein.

17. That the Defendant impliedly warranted that the Defendants had knowledge and were capable of safely delivering and selling its products.

18. That the Defendant further impliedly warranted that the acetone was safe to use for its intended and/or known purpose(s), and that Plaintiffs had been fully and properly warned and/or educated and, thus, were capable of safely using the acetone.

19. That the Defendants breached the implied warranties.

20. Plaintiffs used the acetone in a manner that Defendant generally knew it would be used and/or intended it would be used.

21. That as a direct and proximate cause of the breach of implied warranties by the Defendant, Plaintiffs herein have sustained the injuries and damages set forth in Division I above.

22. That as a direct and proximate cause of the breach of the implied warranties by the Defendant, the Plaintiffs have sustained damages and are entitled to just, reasonable and adequate compensation therefore.

WHEREFORE, the Plaintiffs herein and each of them pray for judgment against the Defendant in an amount that is just, reasonable and adequate compensation together with interest as by law allowed and the cost of this action.

JURY DEMAND

COME NOW, the Plaintiffs herein and hereby respectfully request a trial by jury of all matters in the above-stated matter.

BEATTIE LAW FIRM, P.C.

By: 

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Attorneys for Plaintiffs